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12 FIDELITY TAIWAN CO., LTD., PIONEER NORTH
13 AMERICA, INC. AND PIONEER ELECTRONICS
14 (USA) INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 IN RE: OPTICAL DISK DRIVE
16 PRODUCTS ANTITRUST LITIGATION

17 This Document Relates to:
18 3:13-cv-02124-RS,
19 AARON WAGNER, et al.
20 Plaintiffs,
21 v.
22 PIONEER NORTH AMERICA, INC., et al.,
23 Defendants
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Case No. 3:10-md-2143-RS

STIPULATION AND [PROPOSED]
ORDER REGARDING
CONSOLIDATION, SERVICE OF
PROCESS AND DISCOVERY IN
RELATED ACTION

STIPULATION

WHEREAS, on October 10, 2010, Indirect Purchaser Plaintiffs ("IPPs") filed a consolidated complaint in this multi-district litigation against a number of defendants, in *In re Optical Disk Drive Products Antitrust Litigation*, Case No. 3:10-MD-2143-RS (the "*ODD Litigation*"). (*ODD Litigation*, ECF No. 239.)

WHEREAS, since that time, the *ODD Litigation* has proceeded into discovery and, on May 29, 2013, IPPs filed a Motion for Class Certification in the *ODD Litigation* ("Motion for Class Certification").

WHEREAS, shortly before filing their Motion for Class Certification, on May 8, 2013, IPPs filed a separate class action complaint against defendants Pioneer Corporation, Pioneer High Fidelity Taiwan Co., Ltd., Pioneer North America, Inc., and Pioneer Electronics (USA) Inc. (together the "Pioneer Defendants"), in *Wagner v. Pioneer North America, Inc., et al.*, Case No. 3:13-cv-2124-RS (the "*Wagner Action*"). (*Wagner Action*, ECF No. 1.)

WHEREAS, on May 20, 2013, this Court entered an order deeming the *Wagner Action* related to the *ODD Litigation* and transferring the *Wagner Action* to this Court. (*Wagner Action*, ECF No. 7.)

WHEREAS, on May 21, 2013, this Court issued an order setting a Case Management Conference in the *Wagner Action* for October 11, 2013 (*Wagner Action*, ECF No. 8), pursuant to which the last day for the parties to hold a conference under Rule 26(f) is September 20, 2013.

WHEREAS, on May 29, 2013, IPPs filed a Motion for Leave to Amend Complaint seeking permission to file a Fourth Amended Class Action Complaint in the *ODD Litigation* to, among other things, name the Pioneer Defendants as co-conspirators in the *ODD Litigation* ("Motion to Amend"). (*ODD Litigation*, ECF No. 879.)

WHEREAS, on May 30, 2013, Pioneer North America, Inc. and Pioneer Electronics (USA) Inc., the only Pioneer Defendants served in the *Wagner Action*, filed a Motion to Dismiss IPPs' Complaint. (*ODD Litigation*, ECF No. 887.)

1 WHEREAS, on June 13, 2013, IPPs filed a Notice of Intent to Amend their
2 Complaint against the Pioneer Defendants, rather than oppose the Motion to Dismiss (*ODD*
3 *Litigation*, ECF No. 905), and thereafter filed a First Amended Class Action Complaint against
4 the Pioneer Defendants, on June 20, 2013. (*ODD Litigation*, ECF No. 915.)

5 WHEREAS, on June 12, 2013, Pioneer North America, Inc. and Pioneer
6 Electronics (USA) Inc., filed an opposition to IPPs' Motion to Amend (*ODD Litigation*, ECF No.
7 904), and IPPs filed a reply in support of the Motion to Amend, on June 19, 2013. (*ODD*
8 *Litigation*, ECF No. 911.)

9 WHEREAS, on July 3, 2013, this Court issued an Order on IPPs' Motion to
10 Amend finding that, although the *Wagner* Action was related to the *ODD Litigation*, all
11 documents pertaining to the action against the Pioneer Defendants should have been filed in the
12 *Wagner* Action, rather than the *ODD Litigation*, and directing the parties to meet and confer
13 regarding whether the *Wagner* Action and the *ODD Litigation* should be coordinated or
14 consolidated. (*ODD Litigation*, ECF No. 929.)

15 WHEREAS, to date, Pioneer Corporation and Pioneer High Fidelity Taiwan Co.,
16 Ltd. have not been served with process in the *Wagner* Action.

17 WHEREAS, as instructed by the Court, the parties have met and conferred
18 regarding the possible consolidation of the *Wagner* Action and the *ODD Litigation* and various
19 other issues.

20 NOW, THEREFORE, IT IS HEREBY STIPULATED, by and between the
21 undersigned counsel for the parties as follows:

22 1. With respect to consolidation, the *Wagner* Action shall be fully
23 consolidated with the *ODD Litigation* upon the filing of a Fifth Amended Class Action Complaint
24 ("Fifth Amended Complaint") in the *ODD Litigation* that names the Pioneer Defendants as
25 defendants in the *ODD Litigation*, with the following agreements between the Pioneer Defendants
26 and IPPs: (i) the Pioneer Defendants are not a party to, or bound by, IPPs' pending Motion for
27 Class Certification in the *ODD Litigation*; (ii) IPPs will not file a motion for class certification
28 against the Pioneer Defendants until at least 30 days after the Court issues an Order granting or

1 denying IPPs' pending Motion for Class Certification and after the parties have met and conferred
2 regarding such a motion; (iii) consolidation of the *Wagner* Action with the *ODD Litigation* will
3 not prevent the Pioneer Defendants from seeking extensions of time to complete discovery, file
4 summary judgment, prepare for trial or complete other work in the *ODD Litigation* due to their
5 late entry into this matter, and IPPs will meet and confer in good faith with the Pioneer
6 Defendants regarding such extensions; and (iv) by agreeing to consolidation, the Pioneer
7 Defendants are not waiving any defenses, claims or arguments that they could otherwise assert in
8 the separate *Wagner* action.

9 2. With respect to service of process, as authorized by the Pioneer
10 Defendants, undersigned counsel for the Pioneer Defendants agree to accept service of the Fifth
11 Amended Complaint for all of the Pioneer Defendants, including Pioneer Corporation and
12 Pioneer High Fidelity Taiwan Co., Ltd. The Pioneer Defendants shall have a total of 51 days
13 from service of the Fifth Amended Complaint to file a response thereto.

14 3. With respect to discovery, the Pioneer Defendants and the IPPs shall
15 conduct a conference pursuant to Rule 26(f) ("Rule 26(f) Conference") on August 23, 2013,
16 rather than September 20, 2013. IPPs' initial set of discovery to Pioneer shall focus on the
17 production of transactional data, and later fact-based discovery of Pioneer shall be initially
18 limited to a set of five custodians.

19 IT IS SO STIPULATED.

20 Dated: August 19, 2013

JONES DAY

21
22 By: /s/ Eric P. Enson
23 Eric P. Enson

24 Attorneys for Defendants
25 PIONEER CORPORATION, PIONEER
26 HIGH FIDELITY TAIWAN CO., LTD.,
27 PIONEER NORTH AMERICA, INC. AND
28 PIONEER ELECTRONICS (USA) INC.

1 Dated: August 19, 2013

HAGENS BERMAN SOBOL SHAPIRO
LLP

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3
4 By: /s/ Jeff D. Friedman
Jeff D. Friedman

5 Interim Lead Counsel for
6 INDIRECT PURCHASER PLAINTIFFS

7 * * *

8 **IT IS SO ORDERED.**

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11 Dated: 9/17/13


12 RICHARD SEEBORG
13 UNITED STATES DISTRICT JUDGE
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I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 South Flower Street, Fiftieth Floor, Los Angeles, California 90071.2300. On August 19, 2013, I served a copy of the STIPULATION AND [PROPOSED] ORDER REGARDING CONSOLIDATION, SERVICE OF PROCESS AND DISCOVERY IN RELATED ACTION by electronic transmission.

Executed on August 19, 2013, at Los Angeles, California.

/s/ Deborah Futrowsky
Deborah Futrowsky